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2 **IN THE UNITED STATES DISTRICT COURT**
3 **FOR THE DISTRICT OF NEVADA**

4 UNITED STATES OF AMERICA,) IN EQUITY NO. C-125-RCJ
5)
6 Plaintiff,) SUBPROCEEDING NO. C-125-B
7) 3:73-CV-00127-RCJ-WGC
8 WALKER RIVER PAIUTE TRIBE,)
9)
10 Plaintiff-Intervenor,)
11)
12 v.) **ORDER SUPERSEDING ORDER**
13) **REGARDING SERVICE AND**
14) **FILING IN SUBPROCEEDING**
15 WALKER RIVER IRRIGATION DISTRICT,) **C-125-B ON AND BY**
16 a corporation, et al.,) **UNREPRESENTED PARTIES**
17)
18 Defendants.)
19)
20)
21)

22 On June 3, 2013, the Court entered the Order Regarding Service and Filing in
23 Subproceeding C-125-B On and By Unrepresented Parties (the “Unrepresented Party Order”)
24 (Doc. 1874). For the reasons expressed at the Status Conference in this matter on July 25,
25 2013, the Court has determined that the Unrepresented Party Order should be modified, and in
26 order to have all of the provisions regarding service on Unrepresented Parties in one, rather
27 than two, Orders, the Court is entering this Order to completely supersede the Unrepresented
28 Party Order.

29 **INTRODUCTION**

30 The Court is addressing case management issues related to Subproceeding C-125-B.
31 You are receiving this Order because you are a defendant in Subproceeding C-125-B who filed
32 a Notice of Appearance in this matter and are not represented by an attorney (hereafter,
33 “Unrepresented Parties”).
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The purpose of this Order is to identify and implement the alternative methods described herein to: 1. serve documents on Unrepresented Parties; and 2. allow Unrepresented Parties to serve documents.

BACKGROUND

Previously, this Court required the United States and the Walker River Paiute Tribe to serve persons and entities holding certain categories of water rights with a Notice in Lieu of Summons that required them to file a Notice of Appearance and Intent to Participate. Thus far, almost 1,000 parties have filed a Notice of Appearance and Intent to participate and are not represented by an attorney. Because of the large number of Unrepresented Parties, the Court has identified a need for an effective and efficient method for the Court, as well as all parties, to serve documents on Unrepresented Parties, and to allow Unrepresented Parties to file documents.¹

Unrepresented Parties are rarely allowed to use the Court's Case Management/Electronic Case Filing system ("CM/ECF System"). Use of the CM/ECF System is generally limited to attorneys representing a party, who are required to file and receive all documents using this electronic system.² As a result, service of documents upon Unrepresented Parties must be accomplished by another means. Typically, Unrepresented Parties are served by mail. While the cost of copying and mailing a document is not significant when a case includes only a few unrepresented parties, the cumulative cost is significant when large numbers of unrepresented parties must be served. There are almost 1,000 Unrepresented Parties in Subproceeding C-125-B, which means that the costs of mailing each and every Order

¹ Once service of process under Rule 4 of the Federal Rules of Civil Procedure is finished, Rule 5 addresses whether, when and how subsequent filings and Orders may be served.

² Registered users do not receive paper copies of filings by mail because the CM/ECF System sends them e-mail notice of all filings with a link to an electronic copy of the document in the CM/ECF System. Use of the CM/ECF System is easy, efficient and economical. This Order does not change the requirement that attorneys use the CM/ECF System.

1 or filing will be extremely expensive.³ While the Court is concerned with the cost to the
2 judiciary, of greater concern is that the cost of serving documents by mail might impede the
3 participation of all parties to this matter, particularly Unrepresented Parties.

4 Although a party's consent is generally needed for electronic service, the Local Rules of
5 this Federal Court allow papers to be filed, signed or verified by electronic means as long as the
6 court allows "reasonable exceptions." Nevada Local Rules 5-3 and 5-4 allow electronic filing
7 and service pursuant to Special Order No. 109. Under Special Order No. 109, the U.S. District
8 Court in Nevada requires all cases and proceedings filed on or after January 1, 2006, to be
9 assigned to the electronic filing system. In addition, the Court may amend the electronic Filing
10 Procedures in Special Order No. 109 "in keeping with the needs of the Court."
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12 **FINDINGS AND CONCLUSIONS**

13 Accordingly, and based upon the foregoing, the Court finds that:
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15 1. The alternative methods addressed in this Order for electronic service on
16 Unrepresented Parties and filing by such parties through the Clerk's Office are in keeping with
17 the needs of the Court, and consistent with the Federal Rules of Civil Procedure, the Local
18 Rules of this Court, and Special Order No. 109;

19 2. The procedure set forth herein for Unrepresented Parties to request to be on the
20 Court's "Mail-Only" List, including the conditions for them to remain on the "Mail-Only" List,
21 is a reasonable exception to electronic service; and
22

23 3. The additional limited use of the CM/ECF System and the establishment and
24 maintenance of the public website described below will not overburden the Court staff.
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28 ³ Service is not required on parties that have failed to appear. *See* F.R.C.P. 5(a)(2). If any of
the parties in C-125-B that have not appeared thus far decide to file an appearance, the number
will increase.

ORDER

NOW, THEREFORE, **It Is Hereby Ordered** that:

Establishment of a Public Website:

1. The Clerk of the Court has established and will maintain a website that is separate from the Court's official docket and available to the public, on which the Clerk has and will post Orders and other filings in Subproceeding C-125-B.

2. This separate public website may be accessed directly at: ecf.nv.uscourts.gov/casedisplay or by selecting "Walker River" on the District of Nevada's official website: www.nvd.uscourts.gov.

Service on Unrepresented Parties:

3. **Electronic Service:** If an Unrepresented Party consents to electronic service as hereinafter provided, that party will receive an e-mail from the court's CM/ECF System each time a document is filed in this matter that includes a link to the public website where the party may view, print and/or save the filing at no cost. You may wish to create a new e-mail address to receive notice from the CM/ECF System that is separate from your personal or other e-mail addresses.

4. **Service By Postcard:** In the situation where an Unrepresented Party is unable to receive electronic service, and is approved by the Court to be on a "Mail-Only" List, or where an Unrepresented Party fails either to consent to electronic service or be approved for the "Mail-Only" List, each time a represented party files a paper required to be served by Rule 5(a) of the Federal Rules of Civil Procedure, in addition to serving such paper through the Court's CM/ECF System, the represented party must also serve a postcard notice on such parties. A postcard notice may provide notice of the filing of multiple documents, and may provide notice on behalf of more than one represented party. Such notice must contain the following information: language specifically informing the recipient that the recipient is receiving a

1 NOTICE that a document has been filed in this litigation; language informing the recipient that
2 they are receiving the Notice as ordered by the Court; the date the document was filed; the
3 name of the party or parties who filed the document; the Court's docket number for the filed
4 document; the name of the document that was filed; the address of the public website
5 established by the Court where the party may view, print and/or save the filing at no cost; and
6 the locations at which the recipient can view and/or obtain a paper copy of the document upon
7 payment of copying costs.
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10 5. **Motions:** Consistent with Rule 5(a)(1)(D) of the Federal Rules of Civil
11 Procedure, the postcard notice provided for in paragraph 4 above will not be required for a
12 motion that may be heard *ex parte*. An "*ex parte*" motion is any document filed with the Court
13 that does not affect the rights of others and does not raise a significant issue of law or fact. As
14 well, the postcard notice provided for in paragraph 4 above will not be required for any other
15 notice or filing that does not affect the rights of others and does raise a significant issue of law
16 or fact. At the conclusion of every filing, the represented party shall state whether the materials
17 filed are subject to the postcard notice provided for in paragraph 4 above and, as a result,
18 whether they have served Unrepresented Parties by postcard. In the event that the Court, for
19 whatever reason, disagrees with a represented party's determination that a filing is not subject
20 to postcard service, the Court will instruct the represented party to provide postcard notice of
21 the pleading.
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24 6. Any party filing any pleading requiring postcard notice shall also mail, by first
25 class mail, a copy of the pleading to the following locations at which a physical copy of
26 substantive pleadings will be maintained:

27 A. (to be completed), and

28 B. (to be completed).

1 7. The Court, at a later date, will adopt special procedures regarding the timing of
2 and requirement for responses to motions.

3 8. In the event circumstances are presented to the Court that require the Court to
4 modify the requirements of this Order, the Court will provide reasonable notice to such affected
5 parties of the change.
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7 **Filings by Unrepresented Parties:**

8 9. Unrepresented Parties may file documents in Subproceeding C-125-B by mail or
9 in person with the Clerk of the Court at:

10 Clerk of the Court, Bruce R. Thompson Courthouse
11 400 S. Virginia Street, Room 301
12 Reno, Nevada 89501

13 10. In connection with all such filings, Unrepresented Parties must follow the Local
14 Rules for the district Court of Nevada, which are available through the Court's official website
15 (www.nvd.uscourts.gov) and at the Clerk's Office.

16 **Changes of Address and/or E-mail:**

17 11. Whether an Unrepresented Party has elected to receive electronic notice of
18 filings as described herein, elected to receive service through the "Mail-Only" List, or made no
19 service election, every Unrepresented Party must notify the Court if their mailing and/or e-mail
20 addresses change. In the event that the Court receives notification from the U.S. Postal Service
21 that the address associated with an Unrepresented Party is no longer valid, the Court shall
22 remove that address from the list of addresses for Unrepresented Parties, and the Court and
23 represented parties shall no longer send postcards to the invalid address. Any Unrepresented
24 Party whose address is determined to be invalid may resume receiving postcard notice by
25 providing the Court with his/her valid address.
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27 12. Notice of all e-mail and/or mailing address changes must be sent to the Court at:
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 U.S. District Court Clerk, Attn. C-125-B Notice Clerk

Bruce R. Thompson Courthouse
400 S. Virginia Street, Rom 301
Reno, Nevada 89501

13. Unrepresented Parties who fail to notify the Court of mailing or e-mail address changes and who, as a result of such failure, do not receive a filed document will nevertheless be deemed to have notice of that document and all subsequent orders and other filings in this matter.

15. The Clerk of the Court shall mail a copy of this Order to all Unrepresented Parties who have not elected to receive electronic notice of filings and who the Court and the United States of America have identified as of _____, 2013. Thereafter, the Clerk of the Court shall mail a copy of this Order to all new Unrepresented Parties identified after that date on a periodic basis. When the Clerk's Office makes these periodic mailings, it shall insert a due date for Unrepresented Parties to return the **Notice Selecting Method of Service** that is at least thirty days after the mailing date. The United States shall assist the Clerk's Office with compiling the initial list of persons and entities to receive a copy of this Order.

Required Form to Complete and Return to the Court:

16. The completed **Notice of Selecting Method of Service** ("Notice") shall be returned to:

U.S. District Court Clerk, Attn. C-125-B Notice Clerk
Bruce R. Thompson Courthouse
400 S. Virginia Street, Rom 301
Reno, Nevada 89501

17. Any Unrepresented Party who elects not to register for electronic notice of filings of documents and does not complete Part I of the attached **Notice** must request to be on the Court's "Mail-Only" List, and complete Part II of the same **Notice**.

